

## Federal Railroad Administration, DOT

## § 225.15

Equipment Accident/Incident Attributed to Employee Human Factor; Employee Statement Supplementing Railroad Accident Report”), following the instructions printed on the form. These instructions require that, within 35 days of the date that the Notice was hand delivered or sent by first class mail (postage prepaid) to the employee (except for good cause shown), the original of the Supplement be filed with FRA and a copy be hand delivered or sent by first class mail (postage prepaid) to the railroad that issued the Notice so that the railroad will have an opportunity to reassess its reports to FRA concerning the accident.

(3) Information that the employee wishes to withhold from the railroad must not be included in this Supplement. If an employee wishes to provide confidential information to FRA, the employee should not use the Supplement form (part II of Form FRA F 6180.78, “Notice to Railroad Employee Involved in Rail Equipment Accident/Incident Attributed to Employee Human Factor; Employee Statement Supplementing Railroad Accident Report”), but rather provide such confidential information by other means, such as a letter to the employee’s collective bargaining representative, or to the U.S. Department of Transportation, Federal Railroad Administration, Office of Safety Analysis, RRS-22, Mail Stop 25 West Building 3rd Floor, Room W 33-306, 1200 New Jersey Avenue, SE., Washington, DC 20590. The letter should include the name of the railroad making the allegations, the date and place of the accident, and the rail equipment accident/incident number.

(h) *Willful false statements; penalties.* If an employee chooses to submit a Supplement to FRA, all of the employee’s assertions in the Supplement must be true and correct to the best of the employee’s knowledge and belief.

(1) Under 49 U.S.C. 21301, 21302, and 21304, any person who willfully files a false Supplement with FRA is subject to a civil penalty. See appendix A to this part.

(2) Any person who knowingly and willfully files a false Supplement is subject to a \$5,000 fine, or up to two

years’ imprisonment, or both, under 49 U.S.C. 21311.

[55 FR 37827, Sept. 13, 1990; 55 FR 39538, Sept. 27, 1990, as amended at 61 FR 30969, 30973, June 18, 1996; 75 FR 68905, Nov. 9, 2010]

### § 225.13 Late reports.

Whenever a railroad discovers that a report of an accident/incident, through mistake or otherwise, has been improperly omitted from or improperly reported on its regular monthly accident/incident report, a report covering this accident/incident together with a letter of explanation must be submitted immediately. Whenever a railroad receives a partially or fully completed Employee Statement Supplementing Railroad Accident Report (part II of Form FRA F 6180.78), in response to a Notice to Railroad Employee (part I of Form FRA F 6180.78) issued by the railroad and mailed or hand delivered to the employee, the railroad must promptly review that Supplement; based on that review, reassess the accuracy and validity of the railroad’s Rail Equipment Accident/Incident Report and of any other reports and records required by this part concerning the same accident, including the Employee Human Factor Attachment; make all justified revisions to each of those reports and records; submit any amended reports to FRA; and submit a copy of any amended Rail Equipment Accident/Incident Report, Employee Human Factor Attachment, and Highway-Rail Grade Crossing Accident/Incident Report on the accident to the employee. A second notice under § 225.12 is not required for the employee. If an employee who was never sent a notice under § 225.12 for that accident is implicated in the revised Employee Human Factor Attachment, the railroad must follow the procedures of § 225.12(d).

[39 FR 43224, Dec. 11, 1974, as amended at 55 FR 37828, Sept. 13, 1990; 61 FR 30973, June 18, 1996]

### § 225.15 Accidents/incidents not to be reported.

The following accidents/incidents are not reportable:

(a) *With respect to persons other than railroad employees.* A railroad is not to report injuries that occur at highway-

rail grade crossings that do not involve the presence or operation of on-track equipment, or the presence of railroad employees then engaged in the operation of a railroad;

(b) *With respect to railroad employees on duty.* A railroad is not to report the following injuries to or illnesses of a railroad employee as Worker on Duty—Employee (Class A), if any of the conditions in this paragraph (b) are met. (These exceptions apply only to Worker on Duty—Employee (Class A) and do not affect a railroad's obligation to report these injuries and illnesses as other types of persons (Employee Not On Duty (Class B); Passenger on Trains (Class C); Nontrespassers-On Railroad Property (Class D); Trespassers (Class E)), or a railroad's obligation to maintain a "Railroad Employee Injury/Illness Record" (Form FRA F 6180.98 or alternative railroad-designed form)).

(1) The injury or illness occurred in or about living quarters and an event or exposure not arising from the operation of a railroad was the cause;

(2) At the time of the injury or illness, the employee was present in the work environment as a member of the general public rather than as an employee; or

(3) The injury or illness is caused by a motor vehicle accident and occurs on a company parking lot or company access road while the employee is commuting to or from work.

(c) *With respect to railroad employees on or off duty.* A railroad is not to report the following injuries to or illnesses of a railroad employee, Worker on Duty—Employee (Class A) or Employee Not on Duty (Class B), if any of the following conditions in this paragraph (c) are met:

(1) The injury or illness involves signs or symptoms that surface at work but result solely from a non-work-related event or exposure that occurs outside the work environment;

(2) The injury or illness results solely from voluntary participation in a wellness program or in a medical, fitness, or recreational activity such as blood donation, physical examination, flu shot, exercise class, racquetball, or baseball;

(3) The injury or illness is solely the result of an employee eating, drinking,

or preparing food or drink for personal consumption. However, if the employee is made ill by ingesting food contaminated by workplace contaminants (such as lead), or gets food poisoning from food supplied by the employer, the case would be considered work-related and reported as either a Worker on Duty—Employee (Class A) or Employee Not on Duty (Class B) depending on the employee's duty status;

(4) The injury or illness is solely the result of an employee doing personal tasks (unrelated to their employment) at the establishment outside of the employee's assigned working hours;

(5) The injury or illness is solely the result of personal grooming, self medication for a non-work-related condition, or is intentionally self-inflicted (except that for FRA reporting purposes a railroad shall not exclude an accountable or reportable injury or illness that is the result of a suicide or attempted suicide);

(6) The illness is the common cold or flu (Note: contagious diseases such as tuberculosis, brucellosis, hepatitis A, or plague are considered work-related if the employee is infected at work); or

(7) The illness is a mental illness. Mental illness will not be considered work-related unless the employee voluntarily provides the employer with an opinion from a physician or other licensed health care professional with appropriate training and experience (psychiatrist, psychologist, psychiatric nurse practitioner, etc.) stating that the employee has a mental illness that is work-related.

(d) *With respect to contractors and volunteers.* A railroad is not to report injuries to contractors and volunteers that are listed in paragraphs (b) and (c) of this section. For purposes of this paragraph only, an exception listed in paragraphs (b) and (c) referencing "work environment" is construed to mean for contractors and volunteers only, on property owned, leased, operated over or maintained by the railroad.

(e) *With respect to rail equipment accidents/incidents.* A railroad is not to report rail equipment accidents/incidents if the conditions in this paragraph are met. (This exception does not affect a railroad's obligation to maintain

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records of accidents/incidents as required by § 225.25 (Form FRA F 6180.97, “Initial Rail Equipment Accident/Incident Record”).

(1) Cars derailed on industry tracks by non-railroad employees or non-railroad employee vandalism, providing there is no involvement of railroad employees; and

(2) Damage to out of service cars resulting from high water or flooding (e.g., empties placed on a storage or repair track). This exception does not apply if such cars are placed into a moving consist and as a result of this damage a reportable rail equipment accident results.

[75 FR 68906, Nov. 9, 2010]

### § 225.17 Doubtful cases; alcohol or drug involvement.

(a) The reporting officer of a railroad will ordinarily determine the reportability or nonreportability of an accident/incident after examining all evidence available. The FRA, however, cannot delegate authority to decide matters of judgment when facts are in dispute. In all such cases the decision shall be that of the FRA.

(b) Even though there may be no witness to an accident/incident, if there is evidence indicating that a reportable accident/incident may have occurred, a report of that accident/incident must be made.

(c) All accidents/incidents reported as “claimed but not admitted by the railroad” are given special examination by the FRA, and further inquiry may be ordered. Accidents/incidents accepted as reportable are tabulated and included in the various statistical statements issued by the FRA. The denial of any knowledge or refusal to admit responsibility by the railroad does not exclude those accidents/incidents from monthly and annual figures. Facts stated by a railroad that tend to refute the claim of an injured person are given consideration, and when the facts seem sufficient to support the railroad’s position, the case is not allocated to the reporting railroad.

[39 FR 43224, Dec. 11, 1974, as amended at 50 FR 31579, Aug. 2, 1985; 54 FR 53279, Dec. 27, 1989; 75 FR 68906, Nov. 9, 2010]

### § 225.18 Alcohol or drug involvement.

(a) In preparing Form FRA F 6180.54, “Rail Equipment Accident/Incident Report,” under this part, the railroad shall make such specific inquiry as may be reasonable under the circumstances into the possible involvement of alcohol or drug use or impairment in such accident or incident. If the railroad comes into possession of any information whatsoever, whether or not confirmed, concerning alleged alcohol or drug use or impairment by an employee who was involved in, or arguably could be said to have been involved in, the accident/incident, the railroad shall report such alleged use or impairment as provided in the current FRA Guide. If the railroad is in possession of such information but does not believe that alcohol or drug impairment was the primary or contributing cause of the accident/incident, then the railroad shall include in the narrative statement of such report a brief explanation of the basis of such determination.

(b) For any train accident within the requirement for post-accident testing under § 219.201 of this chapter, the railroad shall append to the Form FRA F 6180.54, “Rail Equipment Accident/Incident Report,” any report required by 49 CFR 219.209(b) (pertaining to failure to obtain samples for post-accident toxicological testing).

(c) For any train or non-train incident, the railroad shall provide any available information concerning the possible involvement of alcohol or drug use or impairment in such accident or incident.

(d) In providing information required by this section, a railroad shall not disclose any information concerning use of controlled substances determined by the railroad’s Medical Review Officer to have been consistent with 49 CFR 219.103.

[75 FR 68906, Nov. 9, 2010]

### § 225.19 Primary groups of accidents/incidents.

(a) For reporting purposes reportable railroad accidents/incidents are divided into three groups:

Group I—Highway-Rail Grade Crossing;  
Group II—Rail Equipment;